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PART IV

Acts of the Indian Legislature assented to by the Governor General

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 23rd November 1946

The following Acts of the Indian Legislature received the assent of the Governor General on the 16th and 19th November, 1946, and are hereby published for general information :—

Act No. XXIII of 1946

An Act further to amend the Reserve Bank of India Act, 1934.

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. This Act may be called the Reserve Bank of India (Amendment) Act, 1946.

2. Section 31 of the Reserve Bank of India Act, 1934, shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-section shall be added, namely :—

“(2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in British India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument.”

3. The Bearer Promissory Notes (Prohibition of Issue) Ordinance, 1946, is hereby repealed.

Act No. XXIV of 1946

An Act to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, certain commodities.

WHEREAS it is necessary to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, foodstuffs (including edible oilseeds and

oils), cotton and woollen textiles, paper (including news print), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica ;

And WHEREAS the Indian Legislature has been empowered by section 2 of the India (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid ; ^{9 and 10 Geo. 6, c. 3}

It is hereby enacted as follows :—

Short title, extent and duration

1. (1) This Act may be called the Essential Supplies (Temporary Powers) Act, 1946.

(2) It extends to the whole of British India.

(3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act. ^{9 and 10 Geo. 6, c. 39}

Definition—

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ essential commodity ” means any of the following classes of commodities :—

(i) foodstuffs,

(ii) cotton and woollen textiles,

(iii) paper.

(iv) petroleum and petroleum products,

(v) spare parts of mechanically propelled vehicles,

(vi) coal,

(vii) iron and steel,

(viii) mica ;

(b) “ food-crops ” shall include crops of sugarcane ;

(c) “ foodstuffs ” shall include edible oilseeds and oils ;

(d) “ notified order ” means an order notified in the official Gazette ;

(e) “ paper ” shall include newsprint ;

(f) “ Provincial Government ”, in relation to a Chief Commissioner's Province, means the Chief Commissioner.

Powers to control production, supply, distribution, etc., of essential commodities

3. (1) The Central Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof, and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity ;

✓ (b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops ;

✓ (c) for controlling the prices at which any essential commodity may be bought or sold ;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity ;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale ;

(f) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order ;

(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles, which, in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental, to public interest ;

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters ;

(i) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order ;

(j) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) An order made under sub-section (1) may confer powers and impose duties upon the Central Government or officers and authorities of the Central Government, notwithstanding that it relates to a matter in respect of which the Provincial Legislature also has power to make laws.

(4) The Central Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity, may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to

the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order, such functions of control as may be provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order, and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

Delegation of powers

4. The Central Government may by notified order direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such Provincial Government or such officer or authority subordinate to a Provincial Government, as may be specified in the direction.

Power to issue directions to Provinces

5. The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any order made under section 3.

Effect of orders

6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Penalties

7. (1) If any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty :

Provided that where the contravention is of an order relating to foodstuffs which contains an express provision in this behalf, the Court shall make such direction, unless for reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

8. Any person who attempts to contravene, or **Attempts and abets a contravention of, any order made under section 3** **abettments** shall be deemed to have contravened that order.

9. If the person contravening an order made under section 3 is a company or other body corporate, every **Offences by corporations** director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

10. If any person—

False statements

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

11. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person **Cognizance of offences**
 XLV of 1880 who is a public servant as defined in section 21 of the Indian Penal Code.

12. Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act. **Power to try offences summarily**
 V of 1898

13. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3. **Special provisions regarding fines**
 V of 1898

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court. **Presumption as to orders**

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority. I of 1872

Burden of proof in certain cases

15. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document, shall be on him.

Protection of action taken under the Act

16. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

Repeal and saving

17. (1) The Essential Supplies (Temporary Powers) Ordinance, 1946, is hereby repealed.

XVIII of 1946

(2) Any order made or deemed to be made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made under this Act; and all appointments made, licences or permits granted and directions issued under any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act.

(3) For the removal of doubts it is hereby declared—

- (a) that for the purposes of the said Ordinance and this Act an order of the nature referred to in section 5 of the said Ordinance made before the commencement of the said Ordinance and not previously rescinded shall be deemed to be, and always to have been, an order in force immediately before such commencement, notwithstanding that such order or parts of it, may not then have been in operation, either at all or in particular areas;
- (b) that for the purposes of this Act an order made or deemed to be made under the said Ordinance and not rescinded prior to the commencement of this Act shall be deemed to be an order in force immediately before the commencement of this Act, notwithstanding that such order, or parts of it, may not then be in operation, either at all or in particular areas.

ACT No. XXV OF 1946

An Act to make provision for the constitution of a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government, for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences.

WHEREAS it is necessary to constitute a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government and to make provision for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Delhi Special Police Establishment Act, 1946.

Short title and extent

(2) It extends to the whole of British India.

V of 1861 2. (1) Notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special police force to be called the Delhi Special Police Establishment for the Chief Commissioner's Province of Delhi for the investigation in that Province of offences notified under section 3.

Constitution and powers of special police establishment

(2) Subject to any orders which the Central Government may make in this behalf, members of the said police establishment shall have throughout the Chief Commissioner's Province of Delhi, in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of that Province have in connection with the investigation of offences committed therein.

(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise in the Chief Commissioner's Province of Delhi any of the powers of the officer in charge of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

3. The Central Government may, by notification in the official Gazette, specify the offences or classes of offences committed in connection with matters concerning Departments of the Central Government which are to be investigated by the Delhi Special Police Establishment.

Offences to be investigated by special police establishment

Superintendence
and administration
of special police
establishment

4. (1) The superintendence of the Delhi Special Police Establishment shall vest in the Central Government.

(2) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a Province, as the Central Government may specify in this behalf.

Extension of
powers and jurisdic-
tion of special
police establish-
ment to other
areas

5. (1) The Central Government may by order extend to any area (including Railway areas) in British India outside the Chief Commissioner's Province of Delhi the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3.

(2) When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the functions of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of the police force of that area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.

Consent of Provin-
cial Government
to exercise of
powers and jurisdic-
tion

6. Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in British India outside the Chief Commissioner's Province of Delhi, not being a Railway area, without the consent—

(a) in case such area is in a Governor's Province, of the Government of that Province
and

(b) in case such area is in a Chief Commissioner's Province, of the Chief Commissioner.

Repeal of Ord.
XXII of 1946

7. The Delhi Special Police Establishment Ordinance, 1946, is hereby repealed.

G. H. SPENCE,
Secy. to the Govt. of India.